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## Facsimile

To	Company	Fax Number
1 Office of PCT Legal Administration	United States Patent and Trademark Office	571-273-0459

Date	Client/Matter Number
October 25, 2004	053735-00056
From	Attorney Number
Linda S. Chan	20093
Phone	Fax
212-940-8712	212-940-8986 / 212-940-8987

Total number of pages, including cover letter: 9  
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### Comments

U.S. Application No.: 09/331,705

PCT No.: PCT/EP97/05792

Our Ref.: 2698/MEINKE/PCT (053735-00056)

**RECEIVED**

25 OCT 2004

### ENCLOSURES:

Legal Staff  
International Division

- (1) Request for Entry and Consideration of Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)
- (2) Return Postcard Stamped August 13, 2004
- (3) Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b) dated August 13, 2004 (with attachment)

### For Messenger Department Use Only

Your fax has been sent. Attached is your original.

Date \_\_\_\_\_ Time \_\_\_\_\_

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Inventor** : **ESCH, Uwe et al.**  
**Title** : **Hydraulic Circuit for a Hydraulic Excavator**  
**Serial No.** : **09/331,705**  
**PCT No.** : **PCT/EP97/05792**  
**Int. Filing Date** : **October 21, 1997**  
**Priority Date** : **December 19, 1996**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at (571)273-0459 on the date shown below  
Name: Linda S. Chan  
Signature: [Signature]  
Date: October 25, 2004

October 25, 2004

MAIL STOP: PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Request for Entry and Consideration of Request for Reconsideration of Earlier Filed  
Petition Under 37 CFR 1.137(b)**

To the Commissioner for Patents:

On August 13, 2004, Applicant filed a "Request for Reconsideration of Earlier Filed Petition under 37 CFR 1.137(b)" (hereinafter "Request for Reconsideration"). A review of the PAIR (Patent Application Information Retrieval) information for the above-referenced application did not show an entry for the Request for Reconsideration filed on August 13, 2004. Applicant hereby requests entry and consideration of the Request for Reconsideration filed on August 13, 2004.

Enclosed herewith is a copy of the return-postcard received from the USPTO evidencing receipt by the Office of the Request for Reconsideration. Also enclosed is a copy of the Request for Reconsideration filed on August 13, 2004.

It is believed that no fee is due with this request, however, if any fees are due with this request or the Request for Reconsideration originally filed on August 13, 2004, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-1290.

Please direct any inquiries regarding this request to the applicant's undersigned attorney, who may be reached directly by telephone at (212)940-8712.

Respectfully submitted,



Linda S. Chan  
Reg. No. 42,400

Attorney Docket No.: 2698/MEINKE/PCT (053735-00056)

Katten Muchin Zavis Rosenman  
575 Madison Avenue  
New York, NY 10022-2585  
Phone: (212)940-8800

PATENTS	
TO: Assistant Commissioner for Patents	
Serial/Patent No. <u>09/331,705</u>	Atty. Docket No. <u>2698/MEINKE</u>
Filing date <u>10/21/97</u>	Date Mailed <u>8/13/04</u>
Inventor(s): <u>ESCHE, Vive et al.</u>	Attorney <u>LS Chan</u>
Title: <u>Hydraulic Circuit for a Hydraulic Excavator</u>	
The U.S. Patent & Trademark Office stamp herein acknowledges receipt of the following:	
<input type="checkbox"/> Application (Utility or Design)	<input type="checkbox"/> Total Pages
<input type="checkbox"/> Preliminary Amendment	<input type="checkbox"/> Sheets of Drawings (Figs. )
<input type="checkbox"/> Declaration and Power of Attorney	<input type="checkbox"/> Fee Transmittal Sheet
<input type="checkbox"/> Transmittal Letter	<input type="checkbox"/> Response to Missing Parts
<input type="checkbox"/> Small Entity Form	<input type="checkbox"/> Amendment
<input type="checkbox"/> Assignment and Cover Sheet	<input type="checkbox"/> IDS & Citation in Application Form
<input type="checkbox"/> Response to Office Action	<input type="checkbox"/> Certified Copy of Priority Document
<input type="checkbox"/> Petition	<input type="checkbox"/> Check(s) # for \$
<input type="checkbox"/> Certificate of Mailing	<input type="checkbox"/> Letter to Official Draft Person
<input checked="" type="checkbox"/> Express Mail Certificate-Label #	<input type="checkbox"/> Corrected Figures
<input checked="" type="checkbox"/> Other: <u>EV 332246/19 US</u>	<input type="checkbox"/> Request for Refund of Fee
<u>Request for Reconsideration of Earlier Filed Petition Under</u>	
<u>37 CFR 1.137(b)</u>	
DT02 Rec'd PCT/PTO 15 AUG 2004	

Ser. No. 09/331,705  
Page 1 of 2**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Inventor** : **ESCH, Uwe et al.**  
**Title** : **Hydraulic Circuit for a Hydraulic Excavator**  
**Serial No.** : **09/331,705**  
**PCT No.** : **PCT/EP97/05792**  
**Int. Filing Date** : **October 21, 1997**  
**Priority Date** : **December 19, 1996**

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 pursuant to 37 CFR 1.10 on the date shown below as

Express Mail Receipt No. EV 332246119 USName: Ralisa SubhawSignature: R. SubhawDate: August 13, 2004

August 13, 2004

MAIL PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)**

To the Commissioner for Patents:

Applicant filed a "Petition to Revive Unintentionally Abandoned Application Under 37 CFR § 1.137(b)" on June 29, 2004. A decision on the petition dated August 6, 2004 was issued. Although the decision noted that the explanation and statement filed were sufficient to show that "the delay in responding to the decision mailed 21 February was unintentional" it was noted that the declaration submitted in response to the Notification of Missing Requirements was a partial declaration and thus did not comply with 37 CFR 1.497(a) and (b).

Applicant hereby submits the declaration in whole. Pages 1 and 2 of the declaration submitted with the response filed on June 29, 2004 were inadvertently omitted. The enclosed

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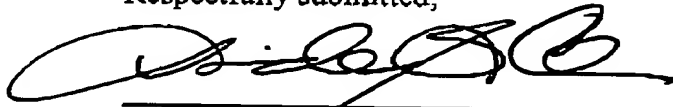
declaration is a copy of the full declaration, pages 1 through 3 with the citizenship of the inventors clearly indicated thereon. It is requested that this declaration be accepted in place of the partial declaration originally filed with the petition dated June 29, 2004.

In view of the foregoing, it is respectfully requested that the current application be revived and returned to prosecution.

It is believed that no fee is due with this request for reconsideration. However, if any fee is due with this paper, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 50-1290.

Please direct any inquiries regarding this request to the applicant's undersigned attorney who can be reached by telephone directly at (212)940-8712.

Respectfully submitted,



Linda S. Chan  
Reg. No. 42,400

Attorney Docket No.: 2698/MEINKE/PCT (053735-00056)

Customer Number: 026304  
Phone: (212)940-8800  
Fax: (212)940-8776

JUN -9. 1999 4:52PM

FRIEDMAN SIEGELBAUM

NO. 3198 P. 18

Friedman Siegelbaum Docket No.: 2698/Meinke

**Declaration and Power of Attorney for Patent Application**  
**Erklärung Für Patentanmeldungen Mit Vollmacht**  
**German Language Declaration**

Als nachstehend benannter Erfinder erkläre ich hiermit an Eide  
 Statt.

dass mein Wohnsitz, meine Postanschrift, und meine  
 Staatsangehörigkeit den im Nachstehenden nach meinem Name  
 aufgeführten Angaben entsprechen,

dass ich, nach bestem Wissen der ursprüngliche, erste und  
 alleinige Erfinder (falls nachstehend nur ein Name angegeben  
 ist) oder ein ursprünglicher, erster und Miterfinder (falls  
 nachstehend mehrere Namen aufgeführt sind) des Gegenstande  
 bin, für den dieser Antrag gestellt wird und für den ein Patent  
 beantragt wird für die Erfindung mit dem Titel:  
 "Hydraulic Circuit for a Hydraulic Excavator"

deren Beschreibung  
 (zutreffendes ankreuzen)

☒ hier beigefügt ist.

☐ am \_\_\_\_\_ unter der  
 Anmeldungsseriennummer \_\_\_\_\_  
 eingereicht wurde und am \_\_\_\_\_  
 abgeändert wurde (falls tatsächlich abgeändert).

Ich bestätige hiermit, dass ich den Inhalt der obigen  
 Patentanmeldung einschliesslich der Ansprüche durchgesehe  
 und verstanden habe, die eventuell durch einen Zusatzantrag wi  
 oben erwähnt abgeändert wurde.

Ich erkenne meine Pflicht zur Offenbarung irgendwelcher  
 Informationen, die für die Prüfung der vorliegenden Anmeldun  
 in Einklang mit Absatz 37, Bundesgesetzbuch, Paragraph  
 1.56(a) von Wichtigkeit sind, an.

Ich beanspruche hiermit ausländische Prioritätsvorteile gemäß  
 Abschnitt 35 der Zivilprozessordnung der Vereinigten Staaten  
 Paragraph 119 aller unten angegebenen Auslandsanmeldunge  
 für ein Patent oder eine Erfindersurkunde, und habe auch alle  
 Auslandsanmeldungen für ein Patent oder eine Erfindersurkund  
 nachstehend gekennzeichnet, die ein Anmeldedatum haben, da  
 vor dem Anmeldedatum der Anmeldung liegt, für die Priorität  
 beansprucht wird.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated  
 below next to my name.

I believe I am the original, first and sole inventor (if only one  
 name is listed below) or an original, first and joint inventor (if  
 plural names are listed below) of the subject matter which is  
 claimed and for which a patent is sought on the invention  
 entitled:

the specification of which  
 (check one)

☐ is attached hereto.

☐ was filed on \_\_\_\_\_  
 Application Serial No. \_\_\_\_\_  
 and was amended on \_\_\_\_\_

(if applicable)

I hereby state that I have reviewed and understand the content  
 of the above identified specification, including the claims, as  
 amended by any amendment referred to above.

I acknowledge the duty to disclose information which is materia  
 to the examination of this application in accordance with Title  
 37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefits under Title 35, United  
 States Code, §119 of any foreign application(s) for patent or  
 inventor's certificate listed below and have also identified belo  
 any foreign application for patent or inventor's certificate havin  
 a filing date before that of the application on which priority is  
 claimed.

16/06 '99 MI 12:14 FAX +49 23 78 DOPAT  
JUN. 9. 1999 4:53PM FRIEDMAN SIEGELBAUMFRIEDMAN ISLAM 004  
NO. 3198 P. 19

## German Language Declaration

Prior foreign applications  
Priorität beanspruchtPriority Claimed

<u>97/05792</u>	<u>PCT</u>	<u>21 Oct. 1997</u>	<input checked="" type="checkbox"/> [ X ]	<input type="checkbox"/> [ ]
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
(Nummer)	(Land)	(Tag/Monat/Jahr eingereicht)	Ja	Nein
<u>19652922.0</u>	<u>Germany</u>	<u>19/12/96</u>	<input checked="" type="checkbox"/> [ X ]	<input type="checkbox"/> [ ]
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
(Nummer)	(Land)	(Tag/Monat/Jahr eingereicht)	Ja	Nein

Ich beanspruche hiermit gemäss Absatz 35 der Zivilprozessordnung der Vereinigten Staaten, Paragraph 120, den Vorzug aller unten aufgeführten Anmeldungen und falls der Gegenstand aus jedem Anspruch dieser Anmeldung nicht in einer früheren amerikanischen Patentanmeldung laut dem ersten Paragraphen des Absatzes 35 der Zivilprozessordnung der Vereinigten Staaten, Paragraph 112 offenbart ist, erkenne ich gemäss Absatz 37, Bundesgesetzbuch, Paragraph 1.56(a) meine Pflicht zur Offenbarung von Informationen an, die zwischen dem Anmeldedatum der früheren Anmeldung und dem nationalen oder PCT internationalen Anmeldedatum dieser Anmeldung bekannt geworden sind.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

<u>(Application Serial No.)</u>	<u>(Filing Date)</u>
(Anmeldeseriennummer)	(Anmeldedatum)

<u>(Status)</u>
(patentiert, anhängig,
aufgegeben)

<u>(Status)</u>
(patented, pending,
abandoned)

<u>(Application Serial No.)</u>	<u>(Filing Date)</u>
(Anmeldeseriennummer)	(Anmeldedatum)

<u>(Status)</u>
(patentiert, anhängig,
aufgegeben)

<u>(Status)</u>
(patented, pending,
abandoned)

Ich erkläre hiermit, dass alle von mir in der vorliegenden Erklärung gemachten Angaben nach meinem besten Wissen und Gewissen der vollen Wahrheit entsprechen, und dass ich diese eidesstattliche Erklärung in Kenntnis dessen abgebe, dass wissentlich und vorsätzlich falsche Angaben gemäss Paragraph 1001, Absatz 18 der Zivilprozessordnung der Vereinigten Staaten von Amerika mit Geldstrafe belegt und/oder Gefängnis bestraft werden können, und dass derartig wissentlich und vorsätzlich falsche Angaben die Gültigkeit der vorliegenden Patentanmeldung oder eines darauf erteilten Patentes gefährden können.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



## German Language Declaration

VERTRETUNGSVOLLMACHT: Als benannter Erfinder beauftrage ich mit den nachstehend benannten Patentanwalt (oder die nachstehend benannten Patentanwälte) und/oder Patent-Agenten mit der Verfolgung der vorliegenden Patentanmeldung sowie mit der Abwicklung aller damit verbundenen Geschäfte vor dem Patent- und Warenzeichenamt:

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Stanley I. Rosen, Reg. No. 19,441  
Richard I. Samuel, Reg. No. 24,435  
Shahan Islam, Reg. No. 32,507  
Theresa A. O'Rourke, Reg. No. 40,747  
Nicholas J. DuBois, Reg. No. 41,719

Telefongespräche bitte richten an:  
Shahan Islam

Direct Telephone Calls to:  
(973) 992-1990, Ext. 191

Postanschrift:

Send Correspondence to:  
FRIEDMAN SIEGELBAUM  
Seven Becker Farm Road  
Roseland, New Jersey 07068-1757

Unterschrift des Erfinders

Datum

*Uwe Esch* 14. Juni, 1999

Voller Name des einzigen oder ursprünglichen Erfinders:  
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Wohnsitz

Harnackstrasse 8

D-44139 Dortmund

Germany

Staatsangehörigkeit

Germany

Postanschrift

Inventor's Signature

Date

Full name of first or sole inventor

Residence

Citizenship

Post Office Address

Unterschrift des Erfinders

Datum

*Gottfried Drieschner* 14. Juni, 1999

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Wohnsitz

Kirchhörder Kopf 53

D-44229 Dortmund

Germany

Staatsangehörigkeit

Germany

Inventor's Signature

Date

Full name of second joint inventor, if any

Residence

Citizenship